

Legal Eagle Rules for Accepting Gifts

Hello, Everyone!

As the holidays approach and we also gear up for the OGE Form 450, Financial Disclosure Report, filing season, our goal is to make sure this sort of headline isn't about you:

Failure to Report Gifts Gets Department of the Interior Official Two Years of Probation

A former Department of the Interior Officer who accepted Washington Redskins tickets, which cost over \$2,000, as well as other gifts from lobbyist Jack Abramoff, was sentenced to two years of probation and ordered to pay a \$1,000 fine. Abramoff was seeking official action from the officer when he gave the officer the gifts. The officer failed to disclose these gifts on the required financial disclosure report (Form 450), and after being investigated in connection with the Abramoff scandal, he pled guilty to making a false certificate or writing.*

Here are a few reminders about gifts from outside sources. The Joint Ethics Regulations (JER), § 2635.202(a), states that "an employee shall not solicit or accept, directly or indirectly, a gift from a prohibited source or given because of the employee's official position."

You might be surprised at the several categories that fall within the definition of a "prohibited source." It is any person or entity--

- * that is seeking official action by the employee's agency;
- * that does or seeks to do business with the employee's agency;
- * that is regulated by the employee's agency;
- * that has interests that may be substantially affected by the employee's official duties; or
- * that is an organization a majority of whose members fit into one or more of these categories.

The test for "official position" is whether the gift would have been solicited, offered, or given had the employee not held the status, authority, or duties associated with his federal position.

In addition, if you are an OGE Form 450 filer, you must report gifts that exceed a minimum value.

There are some exceptions to the gift receipt rules, e.g., gifts that are worth \$20 or less (but no more than \$50 in a year); gifts based on personal relationships; discounts and similar benefits, awards and honorary degrees; attendance at widely attended gatherings, etc.

Rather than try to figure out if an exception applies, though, when you are offered a gift (or tickets or a dinner invitation or anything of value), contact my office or your organization's ethics counselor and get a legal opinion about whether or not you can accept the gift. The point of contact at my office is Jason Smith, who can be reached via email at jason.bowers.smith@us.army.mil.

Bottom Line: Ask your ethics counselor first and avoid making headlines by accepting an improper gift.

Have a happy and legal day!

*Excerpt taken from: Encyclopedia of Ethical Failures, Department of Defense Office of General Counsel, Standards of Conduct Office, April 2007.

LTC Noël L. Woodward
SJA, USAG, Fort Belvoir
9990 Belvoir Drive, Suite 26
Fort Belvoir, VA 22060-6107
noel.woodward@us.army.mil
Office Phone: (703) 805-4399 DSN 655-4399
Fax: (703) 805- 3263